IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 4523 of 2000

Between:

Challa Rathaiah, S/o.Kabbaiah, Accountant,
Andhra Bank Farmers Service Co-op. Society Ltd.,
R/o.Near Lakshmi talkies,
Sattenapalli Mandal , Guntur Dist.

..... PETITIONER

AND

The Managing Director,
Andhra Bank Farmers Service Co-op. Society Ltd.,
Dhulipalla, Sattenapalli Mandal , Guntur Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an appropriate writ, order or direction more particularly in the nature of writ of Mandamus declaring the action of the respondent in not extending all the consequential benefits including the remaining 50% of pay and other allowances for the suspension period from 14-6-1993 to 29-4-1998, is arbitrary, illegal and unconstitutional and direct the respondent to extend all the consequential benefits including the remaining 50% of the wages for the said suspension period.

Counsel for the Petitioner: MR.VENKATESWARLU POSANI

Counsel for the Respondent : Mr. M.S.Ramakrishna Rao

The Court made the following :

O R D E R :

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Heard both sides.

The petitioner herein, who is working as an Accountant with the respondent society, filed this Writ Petition, *inter alia,* seeking a Writ of Mandamus for a direction to make the payment to which he is entitled under law during the period of suspension i.e. 14.06.1993 to 29.04.1998, which is the date of reinstatement.

The case of the petitioner is that on the ground that he was involved in a criminal case and being one of the accused, suspension order was passed on 14.06.1993. Ultimately, the said criminal case was ended in acquittal as per the judgment dated 02.03.1998 and subsequently, he was reinstated on 31.03.1998. It is also represented that as against the court judgment, appeal filed by the State was dismissed confirming the acquittal. Subsequently, the petitioner claimed the benefits during the period of suspension. The same was rejected by the impugned order dated 12.11.1998 on the ground that the petitioner was involved in grave crime i.e. murder, and his plea of alibi was not accepted and so, even though he was acquitted but the same was only on the benefit of doubt and therefore, he is not entitled for payments due during the period of suspension. Hence, the Writ Petition.

The learned counsel appearing on behalf of the petitioner submits that having regard to the fact that the petitioner was acquitted of all the charges against him and the same was confirmed in appeal by this Court, there is no question of denying him to the benefits to which he is entitled to and there is no reason to withhold any such payments.

The learned standing counsel appearing on behalf of the respondents sought to sustain the impugned orders on the ground that having regard to the nature of findings as given by the criminal

court extending benefit of doubt rather than on merits, question of the payment does not arise.

Considering the submissions made and on perusal of material, the question which falls for consideration is as to whether the petitioner is entitled to the payment of all the emoluments during the period of suspension ?

There is no dispute to the above referred basic facts regarding suspension of petitioner on 14.06.1993 and his subsequent reinstatement on 31.03.1998. The said suspension was based upon the fact that he was one of the accused in a criminal case which ultimately ended in acquittal as per the judgment dated 02.03.1998. Claim of the petitioner is that the respondents refused to pay all the consequential benefits after his reinstatement. In support, the learned counsel appearing for the petitioner sought to place reliance on *Brahma Chandra Gupta V. Union of India* wherein it was held that after reinstatement of accused after acquittal, he is entitled to full amount of salary. Having regard to the aforesaid principles as laid down by the Apex Court, there can not be any dispute in regard to the proposition that the employee would be entitled to the benefits once he is acquitted of all the charges in a criminal case. The correctness or otherwise of the findings given by the Criminal Court could not have been possibly gone into by the respondents herein nor can they form part of any enquiry as such. The fact remains that the petitioner was acquitted and the suspension was purely on the basis of his involvement in the criminal case. In the circumstances, the very basis on which the suspension was issued, no longer subsists. In view of the same, the petitioner is entitled to the full salary during the period of suspension, on reinstatement.

The Writ Petition is, accordingly, allowed. No costs.

(B.Prakash Rao, J.)

13.12.2004

DRK

Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on

The Monday, the thirteenth day of December, two thousand and four.

…. Registrar

/ TRUE COPY /

SECTION OFFICER.

To:

1)The Managing Director, Andhra Bank Farmers' Service Co-operative Society Limited, Dhulipalla, Sattenapalli mandal, Guntur district.

2)Two CD copies.